

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-1177272-D5 AND  
ALL OTHER SEAMAN'S DOCUMENTS  
Issued to: James C. MATTINGLY

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1856

James C. MATTINGLY

This appeal has been taken in accordance with Title 46 United States Code 239(g) and 0Title 46 Code of Federal Regulations 137.30-1.

By order dated 18 July 1969, an Examiner of the United States Coast Guard at Galveston, Texas, suspended Appellant's seaman's document for twelve months upon finding him guilty of misconduct. The specifications found prove allege that while serving as an ordinary seaman on board the SS MANTONNA under authority of the document above captioned. Appellant:

- (1) on 28 May, 1969, and
- (2) on 11 June 1969, wrongfully failed to perform his duties when the vessel was at Cape Town, South Africa.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and each specification.

The Investigating Officer introduced no evidence.

There was no defense.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and specifications had been proved by plea. The Examiner then entered an order suspending all documents issued to Appellant for a period of twelve months.

The entire decision was served on 4 December 1970. Appeal was timely filed by a document filed on 9 December 1970. Although Appellant had until 16 March 1971 to do so, he has added nothing to his original statement of grounds for appeal.

FINDINGS OF FACT

On both dates in question, Appellant was serving as an ordinary seaman on board SS MANTONNA and acting under authority of his document while the ship was in the port of Cape Town, South Africa. On both dates, 28 May and 11 June 1969, Appellant wrongfully failed to perform his duties.

#### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged only that when Appellant pleaded guilty to the offenses specified in this case he did not realize that his violation of an earlier order of probation would be visited by such a severe order, and had he so realized, he would have sought counsel.

APPEARANCE: Treece, Richdale & Hoff, by Michael Hoff, Esq., Seattle, Washington.

#### OPINION

##### I

At the time of Appellant's offenses in the instant case he well knew that he was on probation by virtue of an order made effective on 8 October 1969. He was on notice that a violation of the probation order would trigger a nine month suspension.

In little over nine months he violated the probation.

At the time of hearing in the instant case he was adequately advised what he had the right to counsel and that suspension or even revocation of his document could result if the charges were to be found proved.

Appellant entered an informed plea of guilty to both specifications and stated that he had nothing to offer in the way of mitigation.

When the Examiner was apprized of Appellant's prior record in open hearing, it was incumbent on him to make effective the nine month suspension previously ordered. The addition of three months' suspension for the offenses in the instant case was appropriate in view of Appellant's prior record.

There was no error and Appellant's statement of grounds for appeal is without merit.

#### ORDER

The order of the Examiner dated at Galveston, Texas on 18 July

1969, is AFFIRMED.

C. R. BENDER  
Admiral U. S. Coast Guard  
Commandant

Signed at Washington, D.C, this day of 1971

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